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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 4175/2025**

RAHUL

.....Petitioner

Through: Mr. Sauraj Yadav and Mr.
Satyavijay Yadav, Advocates

versus

STATE OF GNCTD

.....Respondent

Through: Mr. Hitesh Vali, APP for the State
alongwith SI Ajay Kumar, P.S.-
Ashok Vihar

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **03.02.2026**

CRL.M.A. 3667/2026 (Early hearing)

1. The applicant has filed the present application seeking early hearing of the captioned bail application.
2. For the reasons stated in the application, the same is allowed and the captioned bail application is taken up for hearing.
3. The application stands disposed of.

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4. By way of the present application, the applicant seeks regular bail in proceedings arising out of FIR No. 705/2014 dated 18.11.2014, registered at Police Station Ashok Vihar.
5. The FIR was initially registered under Section 363 of the Indian Penal Code, 1860 ["IPC"]. Subsequently, a chargesheet was filed on



18.02.2022 under Sections 363/366/376 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 [“POCSO”].

6. The applicant is facing trial before the Court of the learned Additional Sessions Judge-01, POCSO, North-West District, Rohini Courts. His application for bail was rejected by the learned Sessions Court *vide* order dated 16.07.2025, wherein it was observed that the applicant had been declared an absconder under Section 82 of Code of Criminal Procedure [“CrPC”], as he failed to appear before the learned Sessions Court after the filing of the chargesheet in the year 2022 until 01.05.2024. It was further noted that the applicant was arrested in execution of the Non-Bailable Warrants issued against him. On these grounds, coupled with the gravity of the offences involved, the learned Sessions Court declined to grant bail to the applicant.

7. Mr. Hitesh Vali, learned Additional Public Prosecutor, has placed on record a status report, wherein the facts of the case are set out as under:

- a) The FIR was registered on 18.11.2014 on the complaint of the father of the victim, stating that his 14-year-old daughter was missing from home.
- b) The daughter of the complainant was traced approximately one year and four months later, on 29.03.2016.
- c) The statement of the victim was recorded under Section 164 of CrPC, wherein she claimed to have gotten married to the present applicant, and alleged that physical relations were established without her consent.
- d) As per the records of the first school attended by the victim, her



date of birth is reflected as 30.08.2002.

- e) The age of the applicant was initially determined by an ossification test, wherein he was assessed to be between 25 to 40 years. Subsequently, he produced a birth certificate, claiming that he was a juvenile at the time of the incident. The school which the applicant claims to have attended did not have any record of his date of birth.
- h) The applicant did not join the investigation and absconded from the trial. He was declared a proclaimed offender by the learned Sessions Court on 01.05.2024 and was thereafter arrested on 09.09.2024 and produced before the Court.

8. Mr. Sauraj Yadav, learned counsel for the applicant, submits that the applicant has been in custody in connection with the subject FIR, for a period of approximately 1 year and 5 months. He contends that the applicant himself was a minor on the date of the alleged incident, placing reliance on a birth certificate issued by the Municipal Corporation of Delhi, which reflects his date of birth as 18.06.1999. He has also drawn my attention to the testimony of the victim's father, to contend that the victim's date of birth remains uncertain, thereby rendering the charge under POCSO doubtful. It is further submitted that the evidence in the case has already been concluded and the matter is presently at the stage of final arguments before the learned Sessions Court.

9. Mr. Vali submits that the questions relating to the age of the applicant, as well as the age of the victim, are matters to be adjudicated during trial. It is further submitted that the proceedings were transferred by the Juvenile Justice Board to the learned Sessions Court in the year



2022, and the said order was never challenged by the applicant. Mr. Vali further contends that the age of the victim has been verified as 30.08.2002, which would make her approximately 12 years old at the time of the alleged offence. He submits that the grant of bail would be inappropriate in the present case, particularly when the applicant had evaded trial and was declared a proclaimed offender.

10. Having heard learned counsel for the parties and perused the material on record, I am of the view that this is not a fit case for grant of bail at this stage, for the following reasons:

- a) The allegations against the applicant are serious, and pertain to kidnapping and sexual relations with a minor, who was approximately 12 years of age at the time of the incident. She remained missing from home for a period of over one year. Even if there is some material to suggest that the victim may have voluntarily left home with the applicant, no inference of legal consent can be drawn in a case involving a minor.
- b) The question relating to the age of the victim is a matter to be finally adjudicated during trial. For the present, her age has been assessed on the basis of school records, which indicates that she was approximately 12 years old at the time of the incident. The said assessment appears to be in consonance with Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015, which mandates reliance upon school records at the first instance. While the issue may be adjudicated by the Trial Court in accordance with law, for the present purposes, the date of birth recorded in the first school attended by the victim is sufficient.



- c) As regards the age of the applicant, the applicant has not challenged the order of the Juvenile Justice Board transferring the case to the learned Sessions Court. Further, the birth certificate relied upon by him (reflecting his date of birth as 18.06.1999) states that the said birth was registered on 29.11.2016, i.e., after the registration of the present FIR.
- d) The age of the victim at the time of the incident, and the age gap between the victim and the applicant are both relevant factors to be considered in terms of the judgment of this Court in *Dharmander Singh v. State (NCT of Delhi)*¹. In the present case, the age of the victim, as presently assessed, was 12 years, and of the applicant was significantly older. On both these counts, the present case is not an appropriate one for grant of bail to an accused under POCSO.
- e) Significantly, as recorded by the learned Sessions Court, the applicant was declared a proclaimed offender, having failed to attend the proceedings from 18.02.2022 until 01.05.2024. At this stage, therefore, it cannot be said that the applicant does not pose a flight risk.
- f) The applicant was arrested thereafter and has undergone custody for a period of approximately 1 year and 5 months. The trial is already at the stage of final arguments. Consequently, this is also not a case where the applicant can claim relief on the ground of prolonged incarceration, or on account of any inordinate delay in the conclusion of the trial.



11. For the reasons stated above, the present bail application stands dismissed.

12. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application, and shall not influence the trial proceedings, nor shall they be construed as an expression of opinion on the merits of the case.

13. The next date already fixed, i.e., 19.03.2026, stands cancelled.

PRATEEK JALAN, J

FEBRUARY 3, 2026

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¹ 2020 SCC OnLine Del 1267.